THE HONOURABLE SRI JUSTICE V.ESWARAIAH

Date:23-3-2006

WRIT PETITION No.5723 OF 2006

BETWEEN:

S.Venkata Satyanarayana

…Petitioner

And

Vijayawada Municipal Corporation, represented by its Commissioner, Vijayawada and another.

…Respondents

ORDER:

The petitioner seeks to issue a writ of mandamus declaring the action of the first respondent as illegal and ultra vires to the provisions of Article 14 of Constitution of India and also the mandatory provisions of Hyderabad Municipal Corporation Act and Rules made there-under, consequently, direct the first respondent to take appropriate

action in accordance with law and stop the construction being made by the second respondent.

Heard the learned counsel appearing for the petitioner as well as the learned Standing counsel appearing for the first respondent.

It is the case of the petitioner that the second respondent is his brother and he is one of the shareholders of the property in an extent of 100 Sq.yards bearing door No.23-17-5 of Tadankivari Street, Vijayawada along with the second respondent. The second respondent is constructing a house without the permission of Municipal Corporation of Vijayawada and without consent of the petitioner. It is stated that the petitioner filed a representation dated 14-2-2006 before the first respondent, followed by another representation dated 28-3-2006, but no action has been taken.

The learned counsel appearing for the respondent submits that the first respondent cannot decide the right, title and interest of the petitioner over the property. The only course open for the petitioner is to file a civil suit for settlement of his rights. In so far as the construction is concerned, it is stated that no permission is required by the Municipal Corporation for construction of a house in an area of less than 100 Sq.meters. The area covered by the construction is 100 Sq. yards and if any construction made in accordance with the provisions, regulations and bye-laws of the Municipal Corporation, no such permission is required.

I am not inclined to express any opinion as the representation is pending before the first respondent. Therefore, the first respondent is directed to consider and dispose of the representation of the petitioner dated 14-2-2006 and 28-3-2006 in accordance with law after giving reasonable opportunity to the petitioner and second respondent.

The writ petition is disposed of accordingly.

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V.ESWARAIAH, J

Date: 23-3-2006.

Shr.